



Embassy of the United States of America
Seoul, Korea

SPECIAL IMMIGRANT STATUS UNDER SECTION 101(a)(27)(D)

The Immigration and Nationality Act (INA) makes provision for Special Immigrant Status under section 101(a)(27)(D) for any "immigrant who is an employee or an honorably retired former employee, of the United States Government abroad and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: Provided, that the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status." Please note carefully that fifteen years of faithful service is only the **FIRST** and **NOT THE ONLY** requirement; it does not in itself qualify a person for Special Immigrant status. Special Immigrant status can be granted only in "**EXCEPTIONAL CIRCUMSTANCES**" and must be found to be in the "**NATIONAL INTEREST**." Applications from persons whose circumstances are not exceptional cannot be recommended for approval by the Special Immigrant Panel and will be returned to the applicants through the personnel office of the agency by which they are employed.

The following examples, illustrative of "exceptional circumstances" but not all-inclusive, indicate what standards are applied in determining whether such circumstances exist:

- In cases where the country in which the alien employee was employed and the United States have strained relations and in which the employee may be subjected to persecution by the local government merely because of association with the United States government or where the circumstances are such that the employee may be pressured to divulge information available to him which would be contrary to national interests.
- In cases where the alien employee has served the United States loyally and efficiently and where it is believed that the employee's personal security will be endangered by his continued loyal service to the United States government.
- In cases in which the alien employee has served the United States for an extended period of time in a responsible position in a country other than his own native country with subsequent loss of ties, both social and economic, which might make it extremely difficult for him to find suitable employment and/or to readjust to life in his country on retirement or separation from the government agency.
- In cases where the alien employee who, in the course of his faithful service, has fulfilled responsibilities or given service beyond the call of duty and, as a result, clearly deserves some form of recognition by the United States government (some obvious examples are: prevention of a physical attack on an American official or private American citizen at the risk of his own life, or protection of American property in time of war, uprising, or other grave local disturbance).

-- In cases where the alien employee has performed work for the U.S. Government in a faithful and competent fashion for a period which substantially exceeds the fifteen year statutory minimum; Where the nature of the work is such that the employee's contacts with host government entities and other organizations in the country give high visibility as a representative of the U.S. Government; Where the employee's exclusive control over key aspects of the operations of a Foreign Service post gives him unique control over the functioning of the post. The weight given to this factor will be increased upon a showing that the exercise of skills has resulted in substantial monetary savings for the U.S. Government or has yielded other significant benefits; Where the quality of the employee's performance is such that the employee has been given individual awards in recognition of skill, interest, initiative, and efforts to improve personal usefulness to the U.S. Government. The weight to be given these awards will be increased if it is apparent that they are reflective of a pattern of sustained high performance; Where the employee has, apart from performance of official duties, rendered valuable services and assistance to the American community at post.

There are many other ways that a local employee may render faithful service "beyond the call of duty" which "clearly deserves some form of recognition by the United States Government." The nature of the work and quality of performance must be given due consideration, i.e., sustained performance in a sensitive position requiring high skills and ability, a display of interest, initiative and effort to improve performance and usefulness to the government which have resulted in incentive awards, certificates of merit, or other forms of recognition. Consideration should be given to an alien who has performed faithfully and efficiently for a period which substantially exceeds the 15 year minimum, and to an alien who has demonstrated interest in American affairs to the extent that aside from official duties he/she has rendered service and assistance to the American community. Consideration should also be given if the nature of the work is such that the alien comes in personal contact with the public, or if the alien's completed projects are for public consumption, and the results have been such as to reflect high credit to and improve the image of the United States abroad. A combination of the circumstances mentioned above should be given weight when making recommendations.

If you feel that you can meet the requirement of "exceptional circumstances," you may submit your application to the Office of Consul General, American Embassy, Attn: SE, through the supervisory personnel office of the agency by which you are employed. This application should consist of the following items:

1. Form DS-230, Part I (enclosed). In addition to answering question 24, if applicable, please use the remaining space in that block to list the full names, dates and places of birth of all of your children.
2. A statement of your service record, prepared by your personnel officer, containing the following:
 - a. Your full name, date of birth, sex, grade, and present organization or unit.
 - b. Your total years, months, and days of U.S. Government service.

- c. A statement by the personnel officer, if such is the case, that "I certify that (name of employee)'s personnel file contains no reprimand, disciplinary action, or any other derogatory information, and that all performance evaluation reports are satisfactory or better." If such is not the case, a statement need not be made, but copies of any reprimands, disciplinary actions, or other records of misconduct or less than satisfactory service must be attached to the statement of service record.
 - d. A listing which gives the date of your appointment, all reassignments with position title, grade, and salary, and any breaks in service, and, if applicable, the date of termination. Any breaks in service should be explained.
 - e. The signature of an American personnel supervisor.
3. A request for retirement or a letter of resignation. These will be held in the Personnel Office of the agency for which the applicant works. If the visa application is not approved then the letter of resignation or request for retirement will be returned to the applicant should he not wish to proceed with them. The applicant must file petition form DS-1884 within one year from the transmission date of the telegram according special immigrant status. The applicant must resign from United States Government employment and accept visas within six months beyond the date of petition approval.
4. Copies of employee evaluation reports for the preceeding three years may also be attached to the statement of service record.
5. Any awards or certificates of merit, letters of appreciation, commendation, or recommendation, or other instruments of recognition which you may consider it appropriate to submit with your application.

ASSEMBLY OF DOCUMENTS: In order to facilitate processing by the Embassy and the Special Immigrant Panel, the original and one copy of the items listed in Items 1 through 5 above should be separated and fastened together into two packets, one of originals and the other of copies, each arranged in the order of listing above, and Item 5 in chronological order (current supervisor's recommendation on the top.)

IMPORTANT NOTICE: No assurance can be given in advance that Special Immigrant status will be approved for you. The Special Immigrant Panel, if it decides that an applicant appears to meet the qualifications specified in the law, can only recommend approval to the Ambassador, who in turn recommends approval to the Secretary of State in Washington, who makes the final decision on Special Immigrant status (not on the visa, which comes later). If the application is approved in Washington, there still can be no assurance that an immigrant visa will be issued. Only after all documents have been reviewed, your medical examination completed, you have signed and sworn to your formal application and have been interviewed by a consular officer can a decision be reached by the interviewing officer as to your eligibility under the law to receive an immigrant visa. You are strongly advised not to make any travel arrangements for departure

from this country, not to dispose of your property and not to give up your position until a visa has been issued to you. Usually an immigrant visa is valid for six months from the date of issuance, which means that at any time within that six-month period it may be used to apply for admission into the United States.

If you submit your application in accordance with the requirements published in this letter, the Panel will consider your case as soon as possible. However, cases are taken up in the order they are received, and it is not possible to estimate when your turn for consideration will be reached.

Enclosure: Form DS-230 Part I